IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 13.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.207 of 2006

Chinnadurai … Petitioner

Vs.

1. State of Tamil Nadu
Rep. by its Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai 600 009.

2. The District Magistrate
and District Collector,
Tiruvannamalai District,
Tiruvannamalai. … Respondents

Petition under Article 226 of the Constitution of India for the issuance of a writ of Habeas Corpus to call for the entire records relating to petitioner's detention under Tamil Nadu Act 14 of 1982 vide detention order dated 17.01.2006 on the file of the second respondent herein made in proceedings D.O. No.03/2006 - C2, quash the same as illegal, direct the respondents herein to produce the said petitioner namely Chinnadurai before the Court and set him at liberty from detention, now detained in Central Prison, Vellore.

For Petitioner : Mr. C.C.Chellappan
For Respondents : Mr. Mr.M.Babu Muthu Meeran,
Addl. Public Prosecutor.

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner herein challenges the impugned order of detention dated 17.01.2006, detaining him as 'Bootlegger' as contemplated under the Tamil Nadu Prevention of Dangerous activities of Bootleggers, Drug Offenders, Forest

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Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel appearing for the petitioner, by drawing our attention to paragraph No.5 (a) of the grounds of detention, submitted that though the Detaining Authority has specifically referred to the representation petition given by Tmt.Pathipooranam, sister of the detenu, which was considered and rejected, in spite of the specific request made by the detenu, copy of the same was not furnished to him, which vitiates the detention order passed against the detenu.

4. With reference to the said contention, we verified paragraph No.5(a) of the grounds of detention. In the said paragraph, after referring to several details including the representation of Tmt.Jayakodi, mother of the detenu, the Detaining Authority has also referred to the representation petition given by Tmt.Pathipooranam, who is none else than the sister of the detenu. It further shows that the said representation was duly examined and considered by the Detaining Authority based on the remarks of the Sponsoring Authority, and ultimately came to be rejected. No doubt, the same was duly served to the person concerned. It is brought to our notice that, in the representation dated 11.02.2006, the detenu has specifically requested the Government to supply a copy of the representation made by her sister. The said representation is available at page Nos.9 and 10 of the typed set filed along with this Petition. In spite of the specific request for supply of copy of the representation of Pathipooranam, it is not clear as to why the first respondent has not furnished the same. Inasmuch as the Detaining Authority has specifically referred to the representation of the sister of the detenu, we are of the view that copy of the same ought to have been furnished to the detenu in order to make further representation, if any. Failure to do so, vitiates the order passed by the Detaining Authority.

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5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is quashed. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause. JI.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2. The District Magistrate and District Collector, Tiruvannamalai District.

3. The Superintendent, Central Prison, Vellore. (In duplicate for service on the detenu)

4. The Joint Secretary to Govt., Public (Law & Order), Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

+ one cc to Mr. C.C. Chellappan, Advocate sr no. 24829

VC(CO)
NM(20.06.2006)

HCP No.207 of 2006.

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